



February 13, 2017

Adam Mengel, AICP
Planning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd. Bldg. 2, Suite 105
Bunnell, FL 32110-0787

**Re: Bulow Plantation NOPC/PUD Modification
Application Number: 3043
Project #: 2016080015
Submittal #2 Comments & Responses**

Technical Review Committee:

Kimley-Horn and Associates, Inc. (Kimley-Horn) is in receipt of the Flagler County Technical Review Committee's (TRC's) comments. On behalf of the Applicant, MHC Bulow Plantation, LLC and MHC Bulow Plantation Two, LLC, Kimley-Horn has prepared the following responses to the TRC's comments. Flagler County TRC comments are shown below in bold, followed by the Applicant's responses in italics.

Additionally, please find the following items included with this resubmittal:

1. Proposed Bulow Plantation NOPC/PUD Resolution (redline)
2. Proposed Bulow Plantation NOPC/PUD Resolution (clean version)
3. Hurricane Mitigation Fee Calculation Letter

PLANNING DEPARTMENT

- 1. The updated biennial report should be filed now as part of the NOPC request. At a minimum, the biennial report should also include a review of DRI obligations that have been satisfied and outstanding obligations.**

As requested, the Biennial Report has been completed and submitted separately to Flagler County for review.

- 2. Any conflicts between the NOPC and the recorded Memorandum of Agreement between the developer and the County recorded at Official Records Book 728, Page 1980, Public Records of Flagler County, Florida, should be addressed as part of the NOPC process. If needed, the Memorandum of Agreement should also be amended.**

County staff's preference is that the bulk of the Memorandum of Agreement be adopted by Ordinance as a PUD Development Agreement as part of the NOPC process.

In comparing the Memorandum of Agreement to the proposed NOPC/PUD Resolution, the main differences appear to generally consist of the changes in development plans (Manufactured Homes from 1,020 to 600 and RV Sites from 350 to 750) and the consideration of a Hurricane Preparedness Mitigation Fee in lieu of the development of an on-site shelter. As discussed with staff, the DRI/PUD Resolution has been modified to recognize the Memorandum of Agreement and clarify that any provisions within the proposed NOPC/PUD Resolution shall prevail if there are any in conflict with the provisions of the Memorandum of Agreement.

- 3. Exhibit B, Specific Conditions, includes references to the Regional Council's Strategic Regional Policy Plan (SRPP); these Policy references need to be updated to match the current SRPP.**

All references to the Strategic Regional Policy Plan (SRPP) have been removed from Exhibit B, Specific Conditions.

- 4. Exhibit B, Specific Conditions, A. Vegetation and Wildlife, Section 3, discusses docks. The County adopted Ordinance No. 03-04 on May 19, 2003 which prohibits new docks within or adjacent to Bulow Creek and its tributaries. These provisions have been codified as Section 3.06.10 of the Land Development Code (LDC). If the intent is for Bulow Plantation to have additional docks, the language from LDC Section 3.06.10 needs to be incorporated into Exhibit B. If possible, the new dock sites should be identified unless the owner's intent is that these be permitted on a first come, first served basis. Note also the upland buffer language at C. Water, Section 7, and its apparent inconsistency with permitting individual docks within buffers adjacent to the canals.**

Exhibit B, Specific Conditions Section A.3 has been revised to reflect the Applicant's intent to permit the remaining allowable docks on a first come first served basis. Specific Condition C.7 has been revised to clarify that existing and future docks, as specified in Specific Condition A.3, shall be allowed within the upland buffer.

- 5. New FEMA Flood Insurance Rate Maps (FIRMs) adopting the North American Vertical Datum (NAVD) will be adopted by the end of 2017; please change the reference at Exhibit B, Specific Conditions, D. Floodplains, Section 10, to refer to the NAVD 88 datum in addition to the NGVD datum. The same language should be added to J. Hurricane Preparedness, Section 17.**

As requested, Exhibit B, Specific Conditions Section D and J have been revised to include the reference to NAVD 88 datum as well as NGVD datum.

- 6. Exhibit B, Specific Conditions, H. Transportation, Section 15 as written will conflict with the timing of subsection 15.b's traffic impact analysis; 15 states development in Phase II can proceed up to 375 mobile home or RV units or combination thereof before providing a trip generation analysis, while 15.b requires the traffic impact analysis before any development in Phase II occurs. Please verify that this is what is intended to occur.**

Exhibit B, Specific Conditions, Section H has been revised to clarify that a traffic analysis, including trip generation analysis, shall be required prior to any development in Phase II. This is consistent with the requirements within Specific Condition 15.b.

- 7. Update references within Exhibit B, Specific Conditions, J. Hurricane Preparedness, Sections 17 and 18, regarding hurricane zones.**

Exhibit B, Specific Condition J, Hurricane Preparedness Section 17 has been updated to reflect NAVD 88 as well as NGVD 1929 Datum. Further, Section 19 has been updated and revised to include consideration of an appropriate mitigation fee in lieu of constructing the clubhouse to shelter standards.

ENVIRONMENTAL HEALTH DEPARTMENT

- 1. Persons who plan modification of a park or camp shall submit an application and set of plans drawn to scale and include the area and dimensions of the tract of land; the space number or other designation of the space; the location and size of all proposed mobile home, recreational vehicle, or tent spaces; the location of roadways; and the location of any added service buildings.**

The items requested above will be provided as part of future applications and construction documents submitted for development plan approvals at the time the Applicant proposes to modify the manufactured home or recreational vehicle portions of the project.

- 2. A sanitary dump station for each 100 spaces, or fraction thereof, or for each 250 spaces, or fraction thereof, when more than fifty percent of the spaces have sewage disposal hookups is required.**

Sanitary dump stations will be provided as required.

- 3. Recreational Vehicle Parks shall provide a potable water supply station for each 250 spaces, or fraction thereof, when more than 50 percent of the spaces have water and sewer hookups.**

Potable water supply stations shall be provided as required.

ENVIRONMENTAL PLANNER

Exhibit B Section A.1: Please provide additional detail regarding the \$43,300 contribution to FWC. The section states the funds are to compensate for the loss of gopher tortoise habitat and that the application will obtain the necessary gopher tortoise permits from the FWC, it is unclear what this contribution is intended to accomplish. Please provide a statement identifying whether this payment is or is not associated with an incidental take permit.

It is the Applicant's belief that the \$43,300 contribution to the FWC was associated with an incidental take permit.

Exhibit B Section A.2: Flagler County has an approved Manatee Protection Plan. It is not necessary for the applicant to draft their own plan.

As requested, Exhibit B, Section A.2 has been revised to remove the requirement to draft a Manatee Protection Plan separate from the existing County plan.

Exhibit B Section A.3 and 4: Flagler County Land Development Code 3.06.10 prohibits docks and boat ramps along Bulow Creek and its tributaries.

Specific Condition A.3 was approved by the Flagler County Commission in March, 2000, prior to approval of Land Development Code Section 3.06.10 in May, 2003. The Applicant is requesting no change to the number of docks allowed by the condition as part of the proposed NOPC/PUD Resolution.

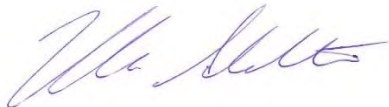
Exhibit B Section E.11 and 12: Please note Flagler County has a Water Conservation for Landscape Irrigation article found in the Land Development Code Article IV. Section 20 which identifies irrigation schedules. Please identify whether lots will be sold individually or ownership will be retained by the developer and parcels rented to tenants. Please identify how the irrigation well backup identified in 12.4. will utilize while ensuring compliance with the Flagler County Land Development Code.

The Applicant intends to abide by the water conservation strategy requirements approved by the Flagler County Commission in Specific Condition E.12 and is proposing no changes to this condition as part of this NOPC/PUD Resolution. Ownership of all lots will be retained by the developer.

I hope that the above responses are sufficient to complete the review of the Bulow Plantation NOPC and PUD applications. Should there be any further questions, please feel free to contact me at (904) 828-3900.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.



Mark W. Shelton, AICP

cc: Ryan Shoup
William J. Schilling, Jr., P.E.
Joseph P. Mecca, P.E.

ATTACHMENT A:
NOPC/PUD RESOLUTION (REDLINE)

FLAGLER COUNTY RESOLUTION NO ~~200017-15XX~~

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, APPROVING THE ~~APPLICATION FOR DEVELOPMENT APPROVAL OF MANUFACTURED HOME COMMUNITIES, INC. NOTICE OF PROPOSED CHANGE FOR THE BULOW PLANTATION DEVELOPMENT OF REGIONAL IMPACT~~, AND APPROVING THE PLANNED UNIT DEVELOPMENT FOR BULOW PLANTATION ~~OF MHC BULOW PLANTATION, LLC AND MHC BULOW PLANTATION TWO, LLC~~, SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, on ~~August-March 2618, 1998~~2016, a pre-application conference was held regarding a Notice of Proposed Change to the Bulow Plantation Development of Regional Impact (DRI) and was attended by MHC Bulow Plantation, LLC, and MHC Bulow Plantation Two, LLC (Applicant), Kimley-Horn and Associates, Inc. (Agent), ~~and~~ representatives of Northeast Florida Regional ~~Planning~~ Council (NEFRPC); ~~Department of Environmental Protection (DEP); St. John's River Water management District (SJRWMD); Florida Fish and Wildlife Conservation Commission (FWC); Florida Department of Transportation (FDOT); Florida State Parks (Parks);~~ and Flagler County, Florida (County); and

WHEREAS, on ~~June 30, 1999~~August 11, 2016, Applicant submitted to the County and the ~~RPC-NEFRC an Application for Development Approval (ADA)~~a Notice of Proposed Change (NOPC) for a DRI known as "Bulow Plantation", in accordance with Section 380.06, Florida Statutes; and

WHEREAS, on ~~October 12, 1999~~February 13, 2017, Applicant responded to a sufficiency request from the ~~RPC-NEFRC~~ for additional information by filing a sufficiency response which supplements said ~~ADA~~NOPC; and

WHEREAS, Bulow Plantation as proposed in the ~~ADA-NOPC~~ is a Planned Unit Development (PUD) located on approximately 323 acres in the unincorporated area of Flagler County, consisting of a total of ~~4020-600~~ residential units, 750 improved recreational vehicle spaces and commercial (including permanent commercial campground facilities), recreational, and other uses; and

WHEREAS, the ADA-NOPC also constitutes Applicant's application for PUD zoning; and

WHEREAS, pursuant to Section 380.031 and 380.06, Florida Statutes, the Board of County Commissioners of Flagler County, Florida, (County), as the local government having jurisdiction, is authorized and required by law to consider the Bulow Plantation DRI ADANOPC; and

WHEREAS, the County has received and reviewed the comments and recommendations of its staff, which recommends approval of the ADA-NOPC subject to certain conditions; and

WHEREAS, the County Commission approved a Memorandum of Agreement regarding the Bulow Plantation DRI on November 6, 2000, that stipulates applicable development standards. The Memorandum of Agreement is recorded in Official Records Book 728, Page 1980.

WHEREAS, the County has received and reviewed the report and recommendations of the RPGNEFRC, which recommends approval of the ADA-NOPC subject to certain conditions; and

WHEREAS, pursuant to Section 380.06, Florida Statutes, notice of a public hearing on the ADA-NOPC and PUD was published on January 5, 2000, in the Flagler/Palm Coast News/Tribune and was provided to the Florida Department of Community Affairs Economic Opportunity (DCADEO), the RPGNEFRC, and other persons designated by DCA-DEO rules; and

WHEREAS, the County on March 6, 2000, held a quasi-judicial public hearing ("the adoption hearing") on the ADA-NOPC and the proposed PUD at which all parties were afforded the opportunity to present evidence and argument on all issues, conduct cross-examination and submit rebuttal evidence, and any member of the general public requesting to do so was given an opportunity to present written or oral evidence; and

WHEREAS, the County at its public hearing fully considered the ADANOPC, the report of the RPGNEFRC, the County staff recommendations and the evidence of record presented at the public hearing, and was otherwise fully advised in the premises.

I. NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, THAT SAID BOARD MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Applicant is MHC Bulow Plantation, LLC, and MHC Bulow Plantation Two, LLC~~Manufactured Home Communities, Inc.~~, of Chicago, Illinois, and its authorized agent is ~~John Seibel, HCI Box 531-A, Bunnell, Florida, 32110~~Kimley-Horn and Associates, Inc.; 12740 Gran Bay Parkway West, Suite 2350; Jacksonville, Florida 32258. Applicant may designate a substitute authorized agent by delivering written notice of the substitution to the County.

2. The legal description of the property comprising the proposed Bulow Plantation DRI is as follows: Please see attached Exhibit A.

3. When developed in accordance with the conditions imposed by this development order, the Bulow Plantation DRI:

a. will not have a significant negative impact on the environment and natural and historical resources of the region;

b. will have a favorable economic impact on the economy of the region by providing new employment and business for the residents of the region;

c. will efficiently use water, sewer, solid waste disposal, emergency services and other necessary public facilities;

d. will efficiently use public transportation facilities;

e. will favorably affect the ability of people to find adequate housing reasonably accessible to their places of employment; and

f. will not create an unreasonable additional demand for, or additional use of, energy, and complies with other criteria for determining regional impact as the ~~RPC-NEFRC~~ has deemed appropriate.

4. The proposed Bulow Plantation DRI is not located in an area of critical state concern designated pursuant to the provisions of Section 380.05, Florida Statutes.

II. BE IT FURTHER RESOLVED THAT THE BOARD MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. The proceedings herein have been conducted in compliance with the provisions of Chapter 380, Florida Statutes, and all conditions precedent to the granting of development approval required by Chapter 380, Florida Statutes, have occurred.

2. The proposed development does not interfere with the achievement of the objectives of any adopted state land development plan applicable to the area as determined by the RPGNEFRC.

3. The proposed Bulow Plantation DRI and PUD Master Plan, when developed subject to the conditions imposed by this amended development order, the Specific Conditions as summarized in Exhibit B, and as the Map H/PUD Map depicted on attached Exhibit CB, is consistent with the Flagler County Comprehensive Plan, subdivision regulations, and other local land development regulations.

4. The proposed development is in all material aspects consistent with the report and recommendations of RPGNEFRC, dated February 3, 2000 and submitted pursuant to Section 380.06(12), Florida Statutes.

III. BE IT FURTHER RESOLVED THAT THE BOARD HEREBY ORDERS AS FOLLOWS:

GENERAL CONDITIONS:

1. The ADA-NOPC and PUD for the Bulow Plantation DRI are hereby approved, subject to the special conditions of development contained in the attached Exhibit CB.

2. This development order resolution, together with all attachments hereto, constitutes the amended development order pursuant to Section 380.06, Florida Statutes, for the Bulow Plantation DRI and PUD. Should any provisions contained within this development order resolution conflict with those contained in the Memorandum of Agreement, recorded in Official Records Book 728, Page 1980, the provisions contained within this development order resolution shall prevail. The ADA-NOPC and sufficiency response filed by the Applicant are incorporated herein by reference, and the proposed development shall be carried out substantially in conformance with the ADANOPC, except to the extent that the ADA-NOPC and the sufficiency response are inconsistent with the other terms and conditions of this amended development order. The ADA-NOPC and sufficiency response are amended by any inconsistent terms of this amended development order. The County's level of service standards and concurrency management standards shall be met by this DRI.

3. The following development is hereby authorized: Please see the land use table attached as in Exhibit D ~~Master and Planned Unit Development Map (Exhibit B)~~.

4. The County Planning and Zoning Director is designated as the local official responsible for receiving and monitoring the annual reports. The procedures for review of Planned Unit Developments under Article III of the Flagler County Development Code and other applicable provisions of the Flagler County Land Development Code shall be followed to facilitate such compliance monitoring by the County Planning and Zoning Director. The provisions of Section 380.06(17), Florida Statutes, shall apply to this development order. Section 380.06(17), Florida Statutes, currently provides: "The local government issuing the development order is primarily responsible for monitoring the development and enforcing the provisions of the development order. Local governments shall not issue any permits or approvals or provide any extensions of services s if the developer fails to act in substantial compliance with the development order."

5. This development order shall take effect upon adoption and shall remain in effect for the duration of the development as described in the ~~ADA-NOPC~~ as provided in Paragraph 8 below. The effective date of this amended development order may be extended by the County upon a showing of the Applicant of excusable delay, including market conditions. ~~In no event shall the effective date of the development order be extended by five or more years, except as provided by Section 380.06(19)(c), Florida Statutes,~~

6. Pursuant to Section 380.06(18), Florida Statutes, and Rule 9J-2.025, Florida Administrative Code, Applicant shall provide a ~~biennial~~annual monitoring report relating to its activities to the County Planning and Zoning Director, the ~~RPCNEFRC~~, and the ~~DCA-DEO~~ on ~~July~~ December 31 of ~~every other~~each year during the term of this development order, commencing on ~~July 31, 2004~~December 31, 2016. The ~~biennial~~annual report shall contain the following:

a. A description of any proposed changes to be made in the proposed plan of development, phasing, or in the representations contained in the ADA since the DRI received approval, and any actions (substantial deviation or non-substantial deviation determinations) taken by local government to address these proposed changes.

b. A summary comparison of development activity proposed and actually conducted during the preceding calendar years~~s~~, and projected for the ensuing calendar year, to include: site improvements; dwelling units constructed; gross floor area constructed by land use type; location; and phases with appropriate maps.

c. An identification by location, size, and buyer of any undeveloped tracts of land in the development that have been sold to a separate entity or developers (other than individual single-family lots), with map(s) which show the parcel(s) or sub-parcel(s) involved.

d. A description of any lands purchased, leased or optioned by the Applicant adjacent to the original DRI site subsequent to issuance of the development order. Such land, its size, and intended use shall be identified on a site plan and map.

e. An assessment of the Applicant's and the County's compliance with conditions of approval contained in the amended development order and the commitments which are contained in the ADA and which have been identified by the County, the RPCNEFRC, or the DCA-DEO as being significant.

f. Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting years s and to be filed during the next year.

g. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued.

h. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Applicant pursuant to subsection 380.06(15)(f)1, Florida Statutes.

i. A listing of any significant local, state, and federal permits which have been obtained, applied for, or denied, during this reporting period, and specifying the agency, type of permit, parcel, location(s), and activity for each.

j. A description of any moratorium on development imposed by a regulatory agency, specifying the type of moratorium, duration, cause, and remedy.

k. A synopsis of the operating parameters of the potable water, wastewater, and solid waste facilities serving the development area for the preceding year. A copy of any site or quality/quantity analysis performed by the regulatory agencies shall be included where available, along with any violation notice or enforcement action.

l. A listing as required by the RPC-NEFRC of the deed restrictions and/or covenants that were in place for the preceding year to ensure non-potable sources of irrigation water were utilized for common areas, where feasible.

m. A description of specific construction plans, design criteria, and planting and maintenance programs for the stormwater treatment system prepared and submitted at the time of permitting review.

n. A description of any changes to the previously reported stormwater plans, design criteria, or planting and maintenance programs.

o. Copies of all regulatory permits issued for work within wetlands.

p. Copies of monitoring reports completed during the previous year for the stormwater/wetland systems. (Such monitoring reports shall be submitted in accord with SJRWMD permit conditions.)

q. Traffic reports shall be submitted to the Florida Department of Transportation (FDOT) District Office in DeLand, as well as to Flagler County, the ~~RPGNEFRC~~, and to ~~DCADEO~~. The first traffic report shall be due at the time of the first annual report, and shall be provided ~~annually~~ biennially until the project is fully occupied. The timing of recommended traffic improvements will be based on the information contained in traffic monitoring reports. The following information shall be included:

(1) A description of current development by land use, type, location, and amount of commercial square footage, along with the proposed construction schedule for the ensuing ~~12-24~~ month period, and appropriate maps.

(2) An inventory of new and/or improved roadways, traffic control devices or other transportation facility improvements to be constructed or provided by the Applicant or governmental entity to adequately accommodate the total existing and anticipated traffic demands.

(3) Traffic counts, turning movements and levels of service actual ~~for the past 12 months~~ and projected for the ensuing ~~12-24~~ months, including traffic estimates for the following roads and intersections, distinguishing between project-related traffic and total traffic volumes.

- Old Kings Road north and south of the project, including turning movements at project entrance.

- S.R. 100 east and west of Old Kings Road, including turning movement at the S.R. 100/Old Kings Road intersection.

- Old Dixie Highway east and west of Old Kings Road, including turning movements at the Old Dixie Highway/Old Kings Road intersection.

Note: Actual FDOT or Flagler County traffic counts shall be used where possible. If actual FDOT or Flagler County traffic counts are not available for a particular road or intersection, the Applicant shall retain, at its expense, a traffic engineering firm to collect the necessary counts. FDOT seasonal adjustment factors shall be used when adjusting traffic counts.

r. A table showing the acreage of the Florida Land Use and Cover Classification System (FLUCCS) categories impacted, preserved, or reserved by the development as of the date of the report.

s. A synopsis of the irrigation systems that have been implemented within the project during the period for which the report is filed, with a chart showing the types of irrigation system, areas (acreage) served, parties responsible for maintenance, and estimated gallons per year used by water source.

t. A statement certifying that the [RPCNEFRC](#), the [DCADEO](#), the County, and all affected agencies have been sent copies of the [annual-biennial](#) report in conformance with Subsections 380.06(15) and (18), Florida Statutes.

7. Definitions contained in Chapter 380, Florida Statutes, shall control in the construction of this development order. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order. If the County is a party in any judicial or administrative proceeding to enforce

this development order, the Applicant or its successor shall pay the County its reasonable attorneys' fees and costs of such action. The County and the Applicant will assist each other in recovering their respective attorneys' fees and costs from other parties when such fees and costs are authorized by law or contract. The venue for enforcement of this amended Development Order shall be in the Circuit Court in and for Flagler County, Florida.

8. The Applicant ~~shall commenced~~ physical development of the DRI within one year from the original date of recordation of ~~notice of~~ this development order, and shall complete such development ~~within 12 years thereafter~~ by January 14, 2023, unless as extended and amended by ~~amendment of~~ this development order. During the effective period of this DO, the County agrees that the approved DRI shall not be subject to downzoning, unit density reduction or intensity reduction, unless the County can demonstrate substantial changes in the conditions underlying the approval of the development order have occurred, or that the development order was based on substantially inaccurate information provided the developer, or that the changes clearly established by the local government to be essential to the public health, safety or welfare. The development order shall terminate as of such completion of development. The commencement and completion dates shall be tolled during any period that the Applicant is prevented from commencing or performing physical development due to state or federal license requirements, moratoria, or judicial or administrative delays beyond the control of the Applicant. Any such tolling shall be subject to Section 380.06(19)(c), Florida Statutes. "Development" as used in this Development Order is defined by Section 380.04, Florida Statutes.

Unless otherwise stated, the Applicant is responsible for the ongoing maintenance of capital facilities or systems described in the special conditions of this development order, and will remain so after the order terminates. However, the Applicant may transfer such responsibilities to County-approved private or governmental entities which assume such responsibilities and are approved by the Flagler County Board of County Commissioners.

9. ~~The ADA, the Bulow Plantation sufficiency response and the additional information submitted in writing to the RPC and the County by the Applicant during the review period between November 1, 1999 and February 3, 2000, are hereby made part of this development order.~~

The NOPC, the Bulow Plantation sufficiency response and the additional information submitted in writing to the NEFRC and the County by the Applicant during the review period between August 11, 2016 and _____, are hereby also made part of this development order.

10. Copies of all permit applications associated with the Bulow Plantation DRI shall be submitted to the ~~RPC-NEFRC~~ and Flagler County, for informational purposes, simultaneously with submittal to the appropriate agencies.

11. In the event that any portion or section of this Development Order is determined to be invalid by a court of competent jurisdiction, the remaining portions or sections of this Development Order shall remain in full force and effect. The applicant and County further agree that if any portion or section of this Development Order is determined to be invalid by a court of competent jurisdiction, the applicant and County shall amend the Development Order pursuant to Chapter 380, Florida Statutes, to solely address the portion or section of this Development Order determined to be invalid. During its term, this development order constitutes a land development regulation applicable to the property described in Exhibit A. The term "Applicant" shall include ~~MHC Bulow Plantation, LLC, MHC Bulow Plantation Two, LLC, Manufactured Home Communities, Inc.~~ and any successors-in-interest who perform development activity on the property. Any successor or assignee of MHC Bulow Plantation, LLC or MHC Bulow Plantation Two, LLC~~Gatorland Vistas, Inc.~~, shall be subject to the provisions contained in the Bulow Plantation Development Order issued by Flagler County. Any lease contract or agreement for sale in accordance with this Development Order of those interests by MHC Bulow Plantation, LLC or MHC Bulow Plantation Two, LLC~~Gatorland Vistas, Inc.~~ for all or any part of the property subject

to this Development Order shall contain a legend substantially in the following form clearly printed or stamped thereon:

THE PROPERTY DESCRIBED HEREIN IS PART OF THE BULOW PLANTATION DEVELOPMENT OF REGIONAL IMPACT AND IS SUBJECT TO A DEVELOPMENT ORDER, NOTICE OF WHICH IS RECORDED IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, WHICH IMPOSES CONDITIONS, RESTRICTIONS AND LIMITATIONS UPON THE USE AND DEVELOPMENT OF THE SUBJECT PROPERTY WHICH ARE BINDING UPON EACH SUCCESSOR AND ASSIGN OF MHC BULOW PLANTATION, LLC AND MHC BULOW PLANTATION TWO, LLC. ~~GATORLAND VISTAS, INC.~~ THE DEVELOPMENT ORDER DOES NOT CONSTITUTE A LIEN, CLOUD, OR ENCUMBRANCE OF REAL PROPERTY OR CONSTITUTE ACTUAL OR CONSTRUCTIVE NOTICE OF SAME. A COPY OF THE DEVELOPMENT ORDER MAY BE REVIEWED AT THE OFFICE OF THE PLANNING AND ZONING DEPARTMENT, FLAGLER COUNTY, OR AT THE OFFICES OF THE DEPARTMENT OF ~~COMMUNITY AFFAIRS~~ ECONOMIC OPPORTUNITY, STATE OF FLORIDA, TALLAHASSEE, FLORIDA.

12. Any proposed change to the development approved by this development order which creates a reasonable likelihood of additional regional impact shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review pursuant to Chapter 380, Florida Statutes.

13. Notice of the adoption of this development order resolution, together with a certified copy of this resolution, shall be recorded by the Applicant in accordance with Section 380.06(15)(f), Florida Statutes. The notice of adoption of this development order, shall state the unit of local government which adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with

any modifications may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, encumbrance on real property, or actual or constructive notice of any such lien, cloud or encumbrance.

14. Local ordinances cited in this development order are incorporated herein by reference.

15. The codes, ordinances, statutes and rules cited in and relied upon in this development order shall be those in effect on ~~March 6, 2000~~_____. Applicant has elected to be bound by the rules adopted pursuant to Chapters ~~4073~~ and 373, Florida Statutes, in effect at the date of the Development Order, in accordance with Section 380.06(5)(c), Florida Statutes.

16. Notices required by this development order between the Applicant and the County shall be by certified mail, return receipt requested, and shall be effective upon receipt.

17. The County shall transmit a certified copy of this development order by certified mail to the ~~DCADEO~~, the ~~RPCNEFRC~~, and the Applicant.

PASSED AND ADOPTED THIS ~~6TH DAY OF MARCH, 2000~~_____.

BOARD OF COUNTY COMMISSIONERS

OF FLAGLER COUNTY, FLORIDA

Exhibit A

LEGAL DESCRIPTION

LOT 4, BULOW GRANT, SECTION 38, TOWNSHIP 12 SOUTH, RANGE 31 EAST, AND
SECTION 37, TOWNSHIP 12 SOUTH, RANGE 32 EAST, FLAGLER COUNTY, FLORIDA.

CONTAINING 323.44 ACRES, MORE OR LESS.

EXHIBIT **BC**

SPECIFIC CONDITIONS

A. Vegetation and Wildlife:

1. Within six months from the date of approval of the~~is~~ development order, the developer shall at its option, do one of the following:

i) Contribute \$43,330.00 to the Florida Fish and Wildlife Conservation Commission Land Acquisition Trust Fund, Northeast Florida account, to purchase 10 acres of habitat to compensate for the loss of habitat supporting the gopher tortoise and its associated wildlife community, and obtain the necessary gopher tortoise permit(s) from the FFWCC, or

ii) Purchase an outparcel of gopher tortoise habitat contiguous with existing state owned conservation land and transfer unencumbered title to the lead land management agency and obtain the necessary gopher tortoise permit(s) from the FFWCC, or

iii) Some combination of options ~~i~~ and ii above approved by the FFWCC.

~~(NEFRPC SRPP Policy 4.4.1, Policy 4.4.2, Policy 4.4.6)~~

2. A Manatee Protection Plan shall not be required as Flagler County adopted a Manatee Protection Plan in 2015 ~~developed for the project. This plan shall include strategies to prevent manatee impacts during and after construction. A manatee education program shall also be developed and incorporated into the Manatee Protection Plan that includes the distribution of manatee educational materials and the posting of educational signs, with special emphasis given to information describing what boaters can do to minimize adversely impacting manatees in Bulow Creek. The applicant will submit the Manatee Protection Plan to FDEP, FFWCC, and Flagler County for review and approval.~~

~~(NEFRPC SRPP Policy 4.5.11)~~

3. Currently, there are 26 existing docks out of the potential 167 canal front lots with access to Bulow Creek. To minimize the increase in boat traffic, the number of ~~new~~existing home sites allowed to apply for dock permits shall be limited to a maximum of 20 new sites selected for potential dock construction on a first-come first-served basis. Dock size shall be limited to no more than 150 square feet over water and shall not extend more than 5' over the water to assure safe navigability of the canal. No other boat docking structures shall be constructed, unless the applicant conducts a study to be approved by FDEP, FFWCC, and Flagler County, which indicates that additional docks will not result in additional regional impacts to water quality and endangered species. This limitation shall be enforced by requiring the developer to record a perpetual conservation easement(s) within the permanent Flagler County public records, and enact appropriate lot deed restrictions and/or covenants that run with the land. The dock limitations shall further be depicted on all approved development plans, and clearly publicized to all existing and future lot owners.

4. Limit the development to one boat ramp for the property.

~~(NEFRPC SRPP Policy 4.5.11, Policy 4.5.8, Policy 4.3.8)~~

5. Osprey nests will be protected by appropriate methodologies during construction and preserved as part of the finished development. If it is determined necessary to move or take down the Osprey nests, the applicant must apply for a permit(s) from the FFWCC. The Osprey nest site replacement plan shall provide for the installation of at least one Osprey nesting platform within suitable undisturbed Bulow Plantation areas for each existing Osprey nest proposed for removal. All construction activities occurring within 500 feet of an Osprey nest shall take place during the non-nesting season of September through February.

~~(NEFRPC SRPP Policy 4.4.1)~~

B. **Wetlands:**

6. To provide maximum protection to Bulow Creek as well as protect the salt marsh system, a minimum buffer of 50-feet with an average of 75-feet will be provided. This buffer shall

begin at the jurisdictional wetland line and proceed landward. The wetlands preserved within this buffer will be preserved through a conservation easement. Any isolated wetlands onsite shall be provided a 25 foot buffer. All buffer areas should be maintained in a natural vegetation state, including under and over story, with the exception of one boardwalk. The applicant has agreed that the boardwalk will be constructed per FDEP guidelines that allow for construction with only temporary impacts. Due to the size of the shoreline associated with the project, in order to minimize impacts in the wetland area, the number of boardwalks will be limited to one (1) boardwalk for this project. This boardwalk can be used as a canoe launch and/or for non-motorized boat launching and must be equipped with handrails to prevent the docking of motorized boats.

~~(NEFRPC SRPP Policy 4.5.8, Policy 4.3.1, Policy 4.3.2)~~

C. **Water:**

7. The applicant has stated that the five (5) on-site canals do not offer adequate vegetative cover or habitat for wetland dependent species, but do provide a direct connection to the Outstanding Florida Waters of Bulow Creek. To protect the water quality of Bulow Creek, a Natural Resource of Regional Significance, a minimum 25-foot upland buffer shall be established for lands adjacent to the canals. The minimum upland buffer shall be 25-feet landward of the top of bank. The applicant will post signs to educate residents that shall include language identifying this buffer. The developer and/or property management shall be responsible for maintaining this 25-foot buffer to insure buffer preservation and to limit impacts. Existing and future docks, as specified in Specific Condition A.3, shall be allowed within the upland buffers.

~~(NEFRPC SRPP Policy 4.3.1, Policy 4.3.2)~~

8. The lots adjacent to canals shall be graded to prevent untreated stormwater from entering the canal system and eventually Bulow Creek. The use of on-site stormwater ponds will be designed as to direct stormwater runoff to prevent water quality degradation and shall meet all local, state, and federal requirements for stormwater treatment and water quality standards.

~~(NEFRPC SRPP Policy 4.1.3, Policy 4.3.8)~~

D. **Floodplains:**

10. The applicant shall not develop manufactured home sites, but may develop recreation and open space amenities, within the floodway. Any development within the 100-year floodplain shall have the first finished floor elevated to a minimum height of 8 feet NGVD 1929 Datum or the NAVD 88 equivalent (6.94 feet). The developer should elevate roadways and provide compensatory storage as in accordance with the appropriate permitting agency.

~~(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.7.3)~~

E. **Water Supply:**

11. The necessary permit(s) to construct the water mains and distribution system for this project and to expand the plant capacity shall be obtained from the FDEP prior to occupancy of Phase II. Phase II Development shall occur concurrent with the provision of adequate central potable water service meeting the adopted level of service in the Flagler County Comprehensive Plan or alternatively may connect to County Water Service. ~~(NEFRPC SRPP Policy 4.2.5, Policy 4.2.6)~~

12. Water conservation strategies, including xeriscape landscape techniques and low flow plumbing fixtures, shall be incorporated into the construction, operation, and maintenance phases of the development, and shall be included into the covenants and deed restrictions. The conservation strategies must include, but are not limited to, the following conditions:

1. The applicant shall commit to utilizing 50% native/drought-tolerant/Xeriscape vegetation in all common landscaped areas.

2. As the applicant has previously committed, the development will provide Xeriscape/drought-tolerant literature to all residents.

3. The applicant will utilize only slow-release/organic fertilizers within developer-maintained areas.

4. Surface water from on-site stormwater ponds shall be used as the primary source for irrigation and the shallow wells will be used only as emergency back-ups.

~~(NEFRPC SRPP Policy 4.2.1, Policy 4.2.11)~~

F. **Wastewater Management:**

13. The necessary wastewater treatment permit(s) needed to expand the plant to handle the additional wastewater treatment needs of this project shall be obtained from the FDEP prior to occupancy of Phase II. Phase II Development shall occur concurrent with the provision of adequate central sewer service meeting the adopted level of service in the Flagler County Comprehensive Plan. Expansion of wastewater treatment plant shall be limited to the existing geographic location. No movement of percolation ponds or spray irrigation may occur any further eastward toward Bulow Creek than as they existed on March 6, 2000. Or, as an alternative, connection to Flagler County's Utility System will be allowed to meet the project's Phase II wastewater treatment demands. ~~(NEFRPC SRPP Policy 4.2.5)~~

G. **Stormwater Management:**

14. The applicant must prepare a pre-development monitoring report for the canals, Bulow Creek and stormwater ponds (after completion). The water quality monitoring report shall be included with the submittal of the Annual-Biennial Report. These reports should include the recorded levels of total nitrogen, total phosphorus, and BOD. If these reports indicate a decline in water quality below the Florida Water Quality standards in the related water bodies, the developer must ~~to~~ identify likely sources and ~~to~~ provide beneficial remedies (such as decreasing fertilizer use, improved stormwater treatment, improved wastewater treatment).

~~(NEFRPC SRPP Policy 4.1.1, Policy 4.1.2, Policy 4.3.5)~~

H. **Transportation:**

15. Prior to ~~the occupancy of greater than 375 dwelling units in the expanded area of the development~~any development in Phase II, the applicant shall provide the NEFRPC, DEOCA,

and Flagler County with a trip generation analysis of the existing occupied development to confirm the trip generation rates used in the analysis; and ~~the an analysis of the operating conditions of Old Kings Road. If the transportation reviewing agencies determine that the trip generation rate used in this analysis should be modified to better represent project traffic impacts, the applicant shall prepare a traffic study, to be reviewed and approved by the reviewing agencies, which indicates whether there are substantial impacts from the project. If necessary, the DO will be amended to include transportation conditions to address any substantial impacts to regionally significant facilities.~~ traffic impact analyses as specified in Section H.15.b below.

~~4a.~~ 4a. Applicant shall dedicate an additional ten (10) feet of right of way for possible future widening of Old Kings Road or construction of a county bicycle path system.

~~2b.~~ 2b. Prior to any development within Phase II, a traffic impact analysis of the existing development plus projected Phase II traffic and associated impacts should be conducted. The traffic impact analysis should identify the following.

~~a1.)~~ a1.) Additional or modified turn lane requirements at Old Kings Road entrance;

~~b2.)~~ b2.) Need for intersection traffic signalization at the project entrance on Old Kings Road;

~~e3.)~~ e3.) Total traffic impacts on the capacity of Old Kings Road. If Old Kings requires additional traffic lanes and/or signal improvements the developer shall contribute their proportionate share toward the total cost. The proportionate share will be determined as a percentage of the ~~total~~ Phase II traffic volume generated from Bulow Plantation. ~~Bulow Plantation includes both the existing and new development approved under this development.~~

~~c3.~~ c3. Developer shall provide additional means of ingress and egress for emergency access. The emergency access depicted on the proposed Master plan (Map H) is

acceptable provided the roadways are stabilized and can accommodate a structural use fire apparatus. ~~(NEFRPC SRPP Policy 5.2.1)~~

I. **Air Quality:**

16. The following fugitive dust control measures shall be undertaken during all construction activities throughout buildout of the project:

~~1a.~~ Contractors will moisten soil or use resinous adhesives on barren areas, which shall include, at a minimum, all roads, parking lots, and material stockpiles;

~~2b.~~ Contractors will use mulch, liquid resinous adhesives with hydro-seeding or sod on all landscape areas;

~~3c.~~ Contractors will remove soil and other dust-generating material deposited on paved streets by vehicular traffic, earth moving equipment, or soil erosion;

~~4d.~~ Contractors will utilize the best operating practices in conjunction with any burning resulting from land clearing, which may include the use of air curtain incinerators.

J. **Hurricane Preparedness:**

17. To mitigate impacts within Category 1 or 2 storm surge zones, development of all structures within Category 1 or 2 storm surge zones as shown in the Northeast Florida Hurricane Storm Surge Atlas Volume 4 shall have the first finished floor elevated to a minimum height of 8 feet NGVD 1929 Datum or the NAVD 88 equivalent (6.94 feet).

~~(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.6.5, Policy 3.7.3, Policy 3.7.6)~~

18. The County shall designate the entire development as a portion of the Category 1 evacuation zone.

~~(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.6.5, Policy 3.7.3, Policy 3.7.6)~~

~~19. When developed, the clubhouse will be built to shelter standards as shown in the American Red Cross Guidelines for Shelter Selection (ARC 4496). The structure shall be large enough, based on the guidelines, to shelter at least 25% of the estimated development population.~~

~~The structure will be available for use as a shelter for development residents when ordered to evacuate their homes by the County authorities during non-hurricane events.~~

~~(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.6.5, Policy 3.7.3, Policy 3.7.6) A payment of \$48,352 will be made to Flagler County for expansion of the County's area hurricane shelter(s) to accommodate residents from Bulow Plantation. The developer will pay this amount prior to occupancy of greater than 350 MH dwelling units or RV sites, or combination thereof in Phase II of the development.~~

20. All residents of this development shall be provided with information regarding the vulnerability of the development to the impacts of hurricanes. The Flagler County Emergency Management Office must approve these materials prior to distribution. This information shall take the form of educational materials designed to increase evacuation participation.

~~(NEFRPC SRPP Goal 3.2, Policy 3.2.2, Policy 3.6.4, Policy 3.6.5, Policy 3.7.3, Policy 3.7.6, Policy 3.8.3)~~

K. **Applicant Commitments:**

The applicant has committed within the ADA, NOPC, and sufficiency responses to the following conditions to mitigate the adverse impacts associated with the Bulow Plantation Development of Regional Impact.

1. The developer has agreed to limit the type of outboard engine to be used in the waterways, to reduce leakage.

2. The applicant has committed to using the on-site stormwater lakes as the primary source of non-potable water supplies (irrigation and fire demand) with the shallow wells used as a secondary source.

3. Building structures will be placed a minimum of one foot above the 100-Year flood elevation or one foot above the highest adjacent road elevation, whichever is highest. The slope of this area will be approximately 1%.

4. The applicant has agreed to implement residential water saving fixtures such as low flow showers and toilets as part of the conservation measures, and to distribute water conservation literature to existing and future residents.

~~5. The RV resort will not be expanded beyond 350 spaces as part of this development.~~

~~65.~~ Relocation efforts for relocating gopher tortoises will follow the guidelines established by the Florida Fish and Wildlife Conservation Commission.

~~76.~~ The wetlands along Bulow Creek will be placed in conservation by recording a conservation easement with the County and in the PUD agreement.

~~87.~~ Any boardwalk will be located within existing cuts already within the wetlands, and will meet all FDEP standards allowing for construction with only temporary impacts, (including boardwalks at least five feet above mean high water with hand rails) such that shading will not occur, and access will be limited.

~~98.~~ Best management practices for the protection of wetlands will be utilized, with the use of silt fences and turbidity barriers where necessary.

~~109.~~ Best management practices will be utilized to develop a plan to prevent adverse impacts to Bulow Creek. This plan may include, but is not limited to, the following measures:

a. Installation of silt screens along the canals and Bulow Creek during construction.

b. Floating turbidity barriers in the canal during construction.

c. Grading and construction of stormwater ponds at the initial stage of construction.

d. Disturbed areas near the canals and Bulow Creek will be sodded and stabilized upon completion of grading.

~~110.~~ The developer will pay \$300,000 (\$200,000 has already been paid by the developer, thereby resulting in an unpaid balance of \$100,000) to be applied toward the purchase

of a fire pumper and an Advanced Life Support ambulance. ~~Prior to October 1, 2001 or the occupancy of the fifty first unit in the new section of the DRI, whichever comes first, the developer will pay the County \$100,000. Prior to the occupancy of the 201st of the expanded units, t~~The developer will pay the ~~second-final~~ second-final installment of \$100,000 plus interest prior to occupancy of the 351st unit in ~~the expanded area~~ Phase II. ~~All balances owed as of October 1, 2001 shall accrue interest at the rate of 2% interest per annum. For purposes of the commitment, a unit shall be defined as either a MH or RV space.~~

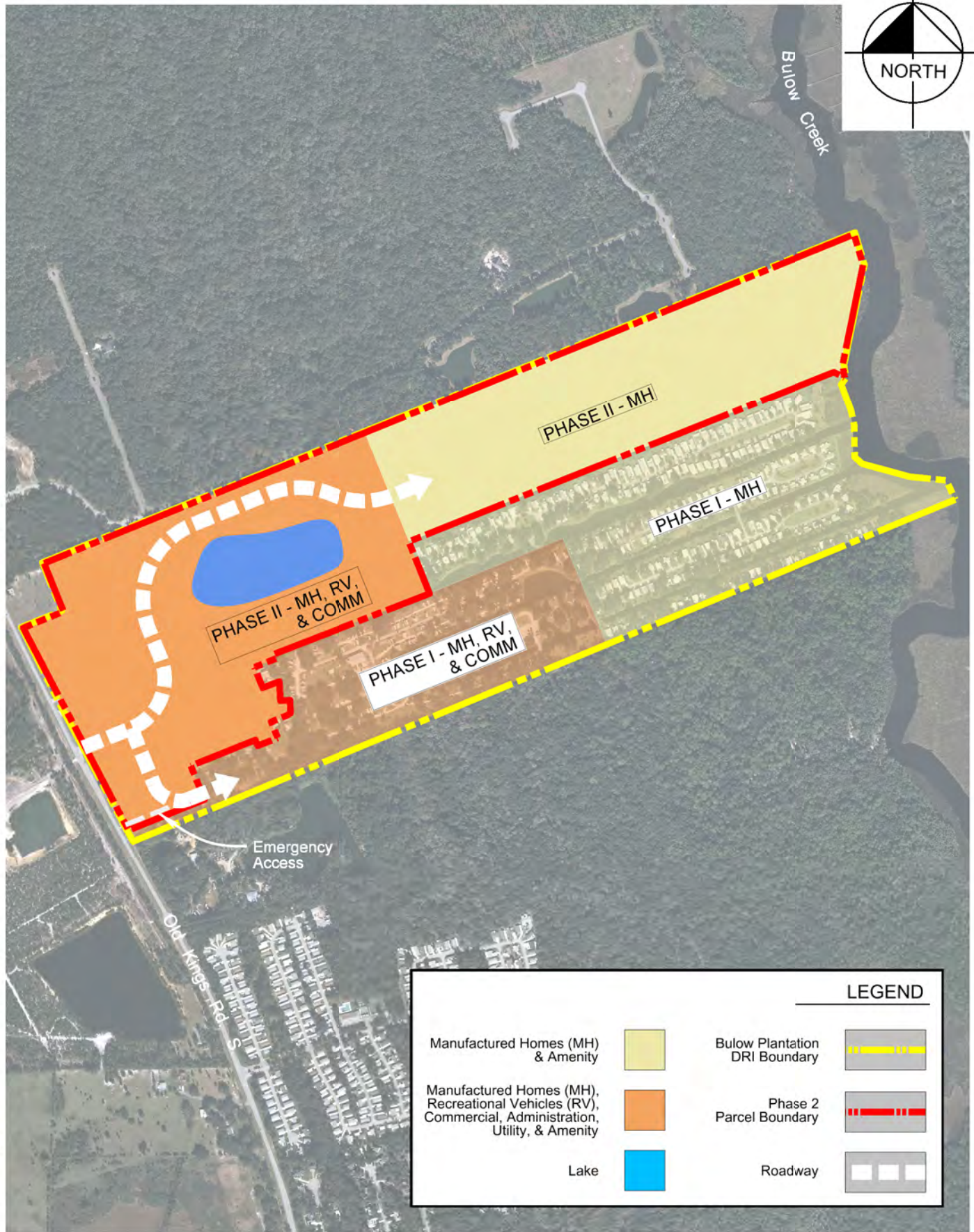
12. No lot may be sold or conveyed directly or indirectly by the Applicant. The entire parcel as described in Exhibit A must be sold or conveyed in its entirety. Use of corporate structures or stock transfers to lot renters as a form of transfer or sale of singular lots is also prohibited. Finally, the land described in Exhibit A shall not constitute common condominium property.

13. A scaled, fully dimensioned map of the street and lot layout for Bulow Plantation, along with all required buffers, conservation easements, recreation areas, bodies of water, commercial or activity center sites, stormwater management areas, lift stations, sewer treatment plants, water treatment or pumping facilities, boat launches and project entrance signs, flood zone and floodway limits, and vacant land remaining to be developed shall be provided to Flagler County prior to beginning development of ~~the first phase~~ Phase II. A revised updated map will be provided to Flagler County ~~prior to beginning any subsequent phase of development. Emergency Services Departments and personnel, as requested~~ with each biennial monitoring report.

14. Substantial deviation review would be conducted if the development is no longer a 55 year older community as represented by the applicant in the ADA.

Exhibit C
Map H/PUD Map

This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.
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LEGEND	
Manufactured Homes (MH) & Amenity	
Manufactured Homes (MH), Recreational Vehicles (RV), Commercial, Administration, Utility, & Amenity	
Lake	
Bulow Plantation DRI Boundary	
Phase 2 Parcel Boundary	
Roadway	

Kimley >>> Horn

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PROJECT #	045443001
DATE	JUNE 2016
SCALE	N.T.S.
DESIGNED BY	KHA
DRAWN BY	KHA
CHECKED BY	KHA

BULOW PLANTATION

DRI / PUD

FLAGLER COUNTY FLORIDA

PROPOSED MAP H / PLANNED UNIT DEVELOPMENT MAP

FIGURE NUMBER
A5

Land Use Table Exhibit D

Bulow Plantation ~~P~~ermitted ~~P~~ermissible ~~u~~ses and Buildings

	<u>Phase I</u>	<u>Phase II</u>	<u>Cumulative Total</u>
<u>Manufactured Housing (MH)</u>	<u>276</u>	<u>324</u>	<u>600</u>
<u>Recreational Vehicles (RV)</u>	<u>352</u>	<u>398</u>	<u>750</u>
<u>Commercial</u>	<u>11,300</u>	<u>12,000</u>	<u>23,300</u>

I. Manufactured Housing Area (MH) (271 ± Acres)

1. A total of ~~4020~~ 600 leased and Improved Manufactured Housing sites for placement of Manufactureding Homes & Appurtenances shall be allowed within the areas depicted on Map H.

2. Accessory Buildings and structures including but not limited to the Activity Center/~~Shelter~~, Laundry, Swimming Pool, Pool House, Hot Tub or Spa, Tennis Courts, ShuffleBoard and Bocci Courts and other Recreational Facilities and Buildings shall be allowed within the MH areas depicted on Map H.

3. Manufactured Housing Sales Center.

II. Permanent Commercial Campground (45 ± Acres)Recreational Vehicles (RV)

1. ~~350~~ A total of 750 improved recreational vehicles (RV) spaces shall be allowed within the areas depicted on Map H.

2. Leasing of campground spaces.

3. Commercial storage of recreational vehicles, boats, motor vehicles, trailers, etc.

4. Vending upon receiving county occupational license.

5. Recreational vehicle sales.

6. Accessory Buildings and structures including But not limited to Clubhouse Meeting Hall, Shower and Bathroom Facilities, Laundry, Swimming Pool, pool house, Tennis Courts,

Shuffleboard Courts, Picnic Pavilions & other Recreational Facilities shall be allowed within the RV areas depicted on Map H.

III. **Commercial Area**

As depicted on Map H, the following commercial uses are allowed in the Commercial areas:—

23,000 ± square feet of commercial space, including but not limited to Convenience Store, Laundry, Recreational ~~v~~ehicles Sales, Restaurant, Bar, Professional office, Storage, Automobile Service Station & Activity Center and Associated parking per use (11,300 SF existing commercial, 12,000 ± SF proposed).

**ATTACHMENT B:
NOPC/PUD RESOLUTION (CLEAN)**

FLAGLER COUNTY RESOLUTION NO 2017-XX

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, APPROVING THE NOTICE OF PROPOSED CHANGE FOR THE BULOW PLANTATION DEVELOPMENT OF REGIONAL IMPACT, AND APPROVING THE PLANNED UNIT DEVELOPMENT FOR BULOW PLANTATION OF MHC BULOW PLANTATION, LLC AND MHC BULOW PLANTATION TWO, LLC, SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, on March 18, 2016, a pre-application conference was held regarding a Notice of Proposed Change to the Bulow Plantation Development of Regional Impact (DRI) and was attended by MHC Bulow Plantation, LLC, and MHC Bulow Plantation Two, LLC (Applicant), Kimley-Horn and Associates, Inc. (Agent), representatives of Northeast Florida Regional Council (NEFRC); and Flagler County, Florida (County); and

WHEREAS, on August 11, 2016, Applicant submitted to the County and the NEFRC a Notice of Proposed Change (NOPC) for a DRI known as "Bulow Plantation", in accordance with Section 380.06, Florida Statutes; and

WHEREAS, on February 13, 2017, Applicant responded to a sufficiency request from the NEFRC for additional information by filing a sufficiency response which supplements said NOPC; and

WHEREAS, Bulow Plantation as proposed in the NOPC is a Planned Unit Development (PUD) located on approximately 323 acres in the unincorporated area of Flagler County, consisting of a total of 600 residential units, 750 improved recreational vehicle spaces and commercial (including permanent commercial campground facilities), recreational, and other uses; and

WHEREAS, the NOPC also constitutes Applicant's application for PUD zoning; and

WHEREAS, pursuant to Section 380.031 and 380.06, Florida Statutes, the Board of County Commissioners of Flagler County, Florida, (County), as the local government having jurisdiction, is authorized and required by law to consider the Bulow Plantation DRI NOPC; and

WHEREAS, the County has received and reviewed the comments and recommendations of its staff, which recommends approval of the NOPC subject to certain conditions; and

WHEREAS, the County Commission approved a Memorandum of Agreement regarding the Bulow Plantation DRI on November 6, 2000, that stipulates applicable development standards. The Memorandum of Agreement is recorded in Official Records Book 728, Page 1980.

WHEREAS, the County has received and reviewed the report and recommendations of the NEFRC, which recommends approval of the NOPC subject to certain conditions; and

WHEREAS, pursuant to Section 380.06, Florida Statutes, notice of a public hearing on the NOPC and PUD was published on _____, in the Flagler/Palm Coast News/Tribune and was provided to the Florida Department of Economic Opportunity (DEO), the NEFRC, and other persons designated by DEO rules; and

WHEREAS, the County on _____, held a quasi-judicial public hearing (“the adoption hearing”) on the NOPC and the proposed PUD at which all parties were afforded the opportunity to present evidence and argument on all issues, conduct cross-examination and submit rebuttal evidence, and any member of the general public requesting to do so was given an opportunity to present written or oral evidence; and

WHEREAS, the County at its public hearing fully considered the NOPC, the report of the NEFRC, the County staff recommendations and the evidence of record presented at the public hearing, and was otherwise fully advised in the premises.

I. NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, THAT SAID BOARD MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Applicant is MHC Bulow Plantation, LLC, and MHC Bulow Plantation Two, LLC, of Chicago, Illinois, and its authorized agent is Kimley-Horn and Associates, Inc.; 12740 Gran Bay Parkway West, Suite 2350; Jacksonville, Florida 32258. Applicant may designate a substitute authorized agent by delivering written notice of the substitution to the County.

2. The legal description of the property comprising the proposed Bulow Plantation DRI is as follows: Please see attached Exhibit A.

3. When developed in accordance with the conditions imposed by this development order, the Bulow Plantation DRI:

a. will not have a significant negative impact on the environment and natural and historical resources of the region;

b. will have a favorable economic impact on the economy of the region by providing new employment and business for the residents of the region;

c. will efficiently use water, sewer, solid waste disposal, emergency services and other necessary public facilities;

d. will efficiently use public transportation facilities;

e. will favorably affect the ability of people to find adequate housing reasonably accessible to their places of employment; and

f. will not create an unreasonable additional demand for, or additional use of, energy, and complies with other criteria for determining regional impact as the NEFRC has deemed appropriate.

4. The proposed Bulow Plantation DRI is not located in an area of critical state concern designated pursuant to the provisions of Section 380.05, Florida Statutes.

II. BE IT FURTHER RESOLVED THAT THE BOARD MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. The proceedings herein have been conducted in compliance with the provisions of Chapter 380, Florida Statutes, and all conditions precedent to the granting of development approval required by Chapter 380, Florida Statutes, have occurred.

2. The proposed development does not interfere with the achievement of the objectives of any adopted state land development plan applicable to the area as determined by the NEFRC.

3. The proposed Bulow Plantation DRI and PUD Master Plan, when developed subject to the conditions imposed by this amended development order, the Specific Conditions as summarized in Exhibit B, and the Map H/PUD Map depicted on attached Exhibit C, is consistent with the Flagler County Comprehensive Plan, subdivision regulations, and other local land development regulations.

4. The proposed development is in all material aspects consistent with the report and recommendations of NEFRC, dated _____ and submitted pursuant to Section 380.06(12), Florida Statutes.

III. BE IT FURTHER RESOLVED THAT THE BOARD HEREBY ORDERS AS FOLLOWS

GENERAL CONDITIONS:

1. The NOPC and PUD for the Bulow Plantation DRI are hereby approved, subject to the special conditions of development contained in the attached Exhibit B.

2. This development order resolution, together with all attachments hereto, constitutes the amended development order pursuant to Section 380.06, Florida Statutes, for the Bulow Plantation DRI and PUD. Should any provisions contained within this development order resolution conflict with those contained in the Memorandum of Agreement, recorded in Official Records Book 728, Page 1980, the provisions contained within this development order resolution shall prevail. The NOPC and sufficiency response filed by the Applicant are incorporated herein by reference, and the proposed development shall be carried out substantially in conformance with the NOPC, except to the extent that the NOPC and the sufficiency response are inconsistent with the other terms and conditions of this amended development order. The NOPC and

sufficiency response are amended by any inconsistent terms of this amended development order. The County's level of service standards and concurrency management standards shall be met by this DRI.

3. The following development is hereby authorized: Please see the land use table attached in Exhibit D.

4. The County Planning and Zoning Director is designated as the local official responsible for receiving and monitoring the annual reports. The procedures for review of Planned Unit Developments under Article III of the Flagler County Development Code and other applicable provisions of the Flagler County Land Development Code shall be followed to facilitate such compliance monitoring by the County Planning and Zoning Director. The provisions of Section 380.06(17), Florida Statutes, shall apply to this development order. Section 380.06(17), Florida Statutes, currently provides: "The local government issuing the development order is primarily responsible for monitoring the development and enforcing the provisions of the development order. Local governments shall not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order."

5. This development order shall take effect upon adoption and shall remain in effect for the duration of the development as described in the NOPC as provided in Paragraph 8 below. The effective date of this amended development order may be extended by the County upon a showing of the Applicant of excusable delay, including market conditions.

6. Pursuant to Section 380.06(18), Florida Statutes, and Rule 9J-2.025, Florida Administrative Code, Applicant shall provide a biennial monitoring report relating to its activities to the County Planning and Zoning Director, the NEFRC, and the DEO on December 31 of every other year during the term of this development order, commencing on December 31, 2016. The biennial report shall contain the following:

a. A description of any proposed changes to be made in the proposed plan of development, phasing, or in the representations contained in the ADA since the DRI received approval, and any actions (substantial deviation or non-substantial deviation determinations) taken by local government to address these proposed changes.

b. A summary comparison of development activity proposed and actually conducted during the preceding calendar years, and projected for the ensuing calendar year, to include: site improvements; dwelling units constructed; gross floor area constructed by land use type; location; and phases with appropriate maps.

c. An identification by location, size, and buyer of any undeveloped tracts of land in the development that have been sold to a separate entity or developers (other than individual single-family lots), with map(s) which show the parcel(s) or sub-parcel(s) involved.

d. A description of any lands purchased, leased or optioned by the Applicant adjacent to the original DRI site subsequent to issuance of the development order. Such land, its size, and intended use shall be identified on a site plan and map.

e. An assessment of the Applicant's and the County's compliance with conditions of approval contained in the amended development order and the commitments which are contained in the ADA and which have been identified by the County, the NEFRC, or the DEO as being significant.

f. Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting years and to be filed during the next year.

g. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued.

h. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Applicant pursuant to subsection 380.06(15)(f)1, Florida Statutes.

i. A listing of any significant local, state, and federal permits which have been obtained, applied for, or denied, during this reporting period, and specifying the agency, type of permit, parcel, location(s), and activity for each.

j. A description of any moratorium on development imposed by a regulatory agency, specifying the type of moratorium, duration, cause, and remedy.

k. A synopsis of the operating parameters of the potable water, wastewater, and solid waste facilities serving the development area for the preceding year. A copy of any site or quality/quantity analysis performed by the regulatory agencies shall be included where available, along with any violation notice or enforcement action.

l. A listing as required by the NEFRC of the deed restrictions and/or covenants that were in place for the preceding year to ensure non-potable sources of irrigation water were utilized for common areas, where feasible.

m. A description of specific construction plans, design criteria, and planting and maintenance programs for the stormwater treatment system prepared and submitted at the time of permitting review.

n. A description of any changes to the previously reported stormwater plans, design criteria, or planting and maintenance programs.

o. Copies of all regulatory permits issued for work within wetlands.

p. Copies of monitoring reports completed during the previous year for the stormwater/wetland systems. (Such monitoring reports shall be submitted in accord with SJRWMD permit conditions.)

q. Traffic reports shall be submitted to the Florida Department of Transportation (FDOT) District Office in DeLand, as well as to Flagler County, the NEFRC, and to DEO. The first traffic report shall be due at the time of the first annual report, and shall be provided biennially until the project is fully occupied. The timing of recommended traffic

improvements will be based on the information contained in traffic monitoring reports. The following information shall be included:

(1) A description of current development by land use, type, location, and amount of commercial square footage, along with the proposed construction schedule for the ensuing 24 month period, and appropriate maps.

(2) An inventory of new and/or improved roadways, traffic control devices or other transportation facility improvements to be constructed or provided by the Applicant or governmental entity to adequately accommodate the total existing and anticipated traffic demands.

(3) Traffic counts, turning movements and levels of service actual and projected for the ensuing 24 months, including traffic estimates for the following roads and intersections, distinguishing between project-related traffic and total traffic volumes.

- Old Kings Road north and south of the project, including turning movements at project entrance.

- S.R. 100 east and west of Old Kings Road, including turning movement at the S.R. 100/Old Kings Road intersection.

- Old Dixie Highway east and west of Old Kings Road, including turning movements at the Old Dixie Highway/Old Kings Road intersection.

Note: Actual FDOT or Flagler County traffic counts shall be used where possible. If actual FDOT or Flagler County traffic counts are not available for a particular road or intersection, the Applicant shall retain, at its expense, a traffic engineering firm to collect the necessary counts. FDOT seasonal adjustment factors shall be used when adjusting traffic counts.

r. A table showing the acreage of the Florida Land Use and Cover Classification System (FLUCCS) categories impacted, preserved, or reserved by the development as of the date of the report.

s. A synopsis of the irrigation systems that have been implemented within the project during the period for which the report is filed, with a chart showing the types of irrigation system, areas (acreage) served, parties responsible for maintenance, and estimated gallons per year used by water source.

t. A statement certifying that the NEFRC, the DEO, the County, and all affected agencies have been sent copies of the biennial report in conformance with Subsections 380.06(15) and (18), Florida Statutes.

7. Definitions contained in Chapter 380, Florida Statutes, shall control in the construction of this development order. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order. If the County is a party in any judicial or administrative proceeding to enforce this development order, the Applicant or its successor shall pay the County its reasonable attorneys' fees and costs of such action. The County and the Applicant will assist each other in recovering their respective attorneys' fees and costs from other parties when such fees and costs are authorized by law or contract. The venue for enforcement of this amended Development Order shall be in the Circuit Court in and for Flagler County, Florida.

8. The Applicant commenced physical development of the DRI within one year from the original date of recordation of this development order, and shall complete such development by January 14, 2023, as extended and amended by this development order. During the effective period of this DO, the County agrees that the approved DRI shall not be subject to downzoning, unit density reduction or intensity reduction, unless the County can demonstrate substantial changes in the conditions underlying the approval of the development order have occurred, or that the development order was based on substantially inaccurate information provided the developer, or that the changes clearly established by the local government to be essential to the

public health, safety or welfare. The development order shall terminate as of such completion of development. The commencement and completion dates shall be tolled during any period that the Applicant is prevented from commencing or performing physical development due to state or federal license requirements, moratoria, or judicial or administrative delays beyond the control of the Applicant. Any such tolling shall be subject to Section 380.06(19)(c), Florida Statutes. "Development" as used in this Development Order is defined by Section 380.04, Florida Statutes.

Unless otherwise stated, the Applicant is responsible for the ongoing maintenance of capital facilities or systems described in the special conditions of this development order, and will remain so after the order terminates. However, the Applicant may transfer such responsibilities to County-approved private or governmental entities which assume such responsibilities and are approved by the Flagler County Board of County Commissioners.

9.

The NOPC, the Bulow Plantation sufficiency response and the additional information submitted in writing to the NEFRC and the County by the Applicant during the review period between August 11, 2016 and _____, are hereby also made part of this development order.

10. Copies of all permit applications associated with the Bulow Plantation DRI shall be submitted to the NEFRC and Flagler County, for informational purposes, simultaneously with submittal to the appropriate agencies.

11. In the event that any portion or section of this Development Order is determined to be invalid by a court of competent jurisdiction, the remaining portions or sections of this Development Order shall remain in full force and effect. The applicant and County further agree that if any portion or section of this Development Order is determined to be invalid by a court of competent jurisdiction, the applicant and County shall amend the Development Order pursuant to Chapter 380, Florida Statutes, to solely address the portion or section of this Development Order determined to be invalid. During its term, this development order constitutes a land development

regulation applicable to the property described in Exhibit A. The term "Applicant" shall include MHC Bulow Plantation, LLC, MHC Bulow Plantation Two, LLC, and any successors-in-interest who perform development activity on the property. Any successor or assignee of MHC Bulow Plantation, LLC or MHC Bulow Plantation Two, LLC, shall be subject to the provisions contained in the Bulow Plantation Development Order issued by Flagler County. Any lease contract or agreement for sale in accordance with this Development Order of those interests by MHC Bulow Plantation, LLC or MHC Bulow Plantation Two, LLC for all or any part of the property subject to this Development Order shall contain a legend substantially in the following form clearly printed or stamped thereon:

THE PROPERTY DESCRIBED HEREIN IS PART OF THE BULOW PLANTATION DEVELOPMENT OF REGIONAL IMPACT AND IS SUBJECT TO A DEVELOPMENT ORDER, NOTICE OF WHICH IS RECORDED IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, WHICH IMPOSES CONDITIONS, RESTRICTIONS AND LIMITATIONS UPON THE USE AND DEVELOPMENT OF THE SUBJECT PROPERTY WHICH ARE BINDING UPON EACH SUCCESSOR AND ASSIGN OF MHC BULOW PLANTATION, LLC AND MHC BULOW PLANTATION TWO, LLC. THE DEVELOPMENT ORDER DOES NOT CONSTITUTE A LIEN, CLOUD, OR ENCUMBRANCE OF REAL PROPERTY OR CONSTITUTE ACTUAL OR CONSTRUCTIVE NOTICE OF SAME. A COPY OF THE DEVELOPMENT ORDER MAY BE REVIEWED AT THE OFFICE OF THE PLANNING AND ZONING DEPARTMENT, FLAGLER COUNTY, OR AT THE OFFICES OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY, STATE OF FLORIDA, TALLAHASSEE, FLORIDA.

12. Any proposed change to the development approved by this development order which creates a reasonable likelihood of additional regional impact shall constitute a substantial

deviation and shall cause the development to be subject to further development-of-regional-impact review pursuant to Chapter 380, Florida Statutes.

13. Notice of the adoption of this development order resolution, together with a certified copy of this resolution, shall be recorded by the Applicant in accordance with Section 380.06(15)(f), Florida Statutes. The notice of adoption of this development order, shall state the unit of local government which adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any modifications may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, encumbrance on real property, or actual or constructive notice of any such lien, cloud or encumbrance.

14. Local ordinances cited in this development order are incorporated herein by reference.

15. The codes, ordinances, statutes and rules cited in and relied upon in this development order shall be those in effect on _____. Applicant has elected to be bound by the rules adopted pursuant to Chapters 403 and 373, Florida Statutes, in effect at the date of the Development Order, in accordance with Section 380.06(5)(c), Florida Statutes.

16. Notices required by this development order between the Applicant and the County shall be by certified mail, return receipt requested, and shall be effective upon receipt.

17. The County shall transmit a certified copy of this development order by certified mail to the DEO, the NEFRC, and the Applicant.

PASSED AND ADOPTED THIS _____.

BOARD OF COUNTY COMMISSIONERS

OF FLAGLER COUNTY, FLORIDA

Exhibit A

LEGAL DESCRIPTION

LOT 4, BULOW GRANT, SECTION 38, TOWNSHIP 12 SOUTH, RANGE 31 EAST, AND
SECTION 37, TOWNSHIP 12 SOUTH, RANGE 32 EAST, FLAGLER COUNTY, FLORIDA.

CONTAINING 323.44 ACRES, MORE OR LESS.

EXHIBIT B

SPECIFIC CONDITIONS

A. Vegetation and Wildlife:

1. Within six months from the date of approval of the development order, the developer shall at its option, do one of the following:

i) Contribute \$43,330.00 to the Florida Fish and Wildlife Conservation Commission Land Acquisition Trust Fund, Northeast Florida account, to purchase 10 acres of habitat to compensate for the loss of habitat supporting the gopher tortoise and its associated wildlife community, and obtain the necessary gopher tortoise permit(s) from the FFWCC, or

ii) Purchase an outparcel of gopher tortoise habitat contiguous with existing state owned conservation land and transfer unencumbered title to the lead land management agency and obtain the necessary gopher tortoise permit(s) from the FFWCC, or

iii) Some combination of options i and ii above approved by the FFWCC.

2. A Manatee Protection Plan shall not be required as Flagler County adopted a Manatee Protection Plan in 2015.

3. Currently, there are 26 existing docks out of the potential 167 canal front lots with access to Bulow Creek. To minimize the increase in boat traffic, the number of existing home sites allowed to apply for dock permits shall be limited to a maximum of 20 new sites selected for potential dock construction on a first-come first-served basis. Dock size shall be limited to no more than 150 square feet over water and shall not extend more than 5' over the water to assure safe navigability of the canal. No other boat docking structures shall be constructed, unless the applicant conducts a study to be approved by FDEP, FFWCC, and Flagler County, which indicates that additional docks will not result in additional regional impacts to water quality and endangered species. This limitation shall be enforced by requiring the developer to record a

perpetual conservation easement(s) within the permanent Flagler County public records, and enact appropriate lot deed restrictions and/or covenants that run with the land. The dock limitations shall further be depicted on all approved development plans, and clearly publicized to all existing and future lot owners.

4. Limit the development to one boat ramp for the property.

5. Osprey nests will be protected by appropriate methodologies during construction and preserved as part of the finished development. If it is determined necessary to move or take down the Osprey nests, the applicant must apply for a permit(s) from the FFWCC. The Osprey nest site replacement plan shall provide for the installation of at least one Osprey nesting platform within suitable undisturbed Bulow Plantation areas for each existing Osprey nest proposed for removal. All construction activities occurring within 500 feet of an Osprey nest shall take place during the non-nesting season of September through February.

B. **Wetlands:**

6. To provide maximum protection to Bulow Creek as well as protect the salt marsh system, a minimum buffer of 50-feet with an average of 75-feet will be provided. This buffer shall begin at the jurisdictional wetland line and proceed landward. The wetlands preserved within this buffer will be preserved through a conservation easement. Any isolated wetlands onsite shall be provided a 25 foot buffer. All buffer areas should be maintained in a natural vegetation state, including under and over story, with the exception of one boardwalk. The applicant has agreed that the boardwalk will be constructed per FDEP guidelines that allow for construction with only temporary impacts. Due to the size of the shoreline associated with the project, in order to minimize impacts in the wetland area, the number of boardwalks will be limited to one (1) boardwalk for this project. This boardwalk can be used as a canoe launch and/or for non-motorized boat launching and must be equipped with handrails to prevent the docking of motorized boats.

C. **Water:**

7. The applicant has stated that the five (5) on-site canals do not offer adequate vegetative cover or habitat for wetland dependent species, but do provide a direct connection to the Outstanding Florida Waters of Bulow Creek. To protect the water quality of Bulow Creek, a Natural Resource of Regional Significance, a minimum 25-foot upland buffer shall be established for lands adjacent to the canals. The minimum upland buffer shall be 25-feet landward of the top of bank. The applicant will post signs to educate residents that shall include language identifying this buffer. The developer and/or property management shall be responsible for maintaining this 25-foot buffer to insure buffer preservation and to limit impacts. Existing and future docks, as specified in Specific Condition A.3, shall be allowed within the upland buffers.

8. The lots adjacent to canals shall be graded to prevent untreated stormwater from entering the canal system and eventually Bulow Creek. The use of on-site stormwater ponds will be designed as to direct stormwater runoff to prevent water quality degradation and shall meet all local, state, and federal requirements for stormwater treatment and water quality standards.

D. **Floodplains:**

10. The applicant shall not develop manufactured home sites, but may develop recreation and open space amenities, within the floodway. Any development within the 100-year floodplain shall have the first finished floor elevated to a minimum height of 8 feet NGVD 1929 Datum or the NAVD 88 equivalent (6.94 feet). The developer should elevate roadways and provide compensatory storage as in accordance with the appropriate permitting agency.

E. **Water Supply:**

11. The necessary permit(s) to construct the water mains and distribution system for this project and to expand the plant capacity shall be obtained from the FDEP prior to occupancy of Phase II. Phase II Development shall occur concurrent with the provision of adequate central potable water service meeting the adopted level of service in the Flagler County Comprehensive Plan or alternatively may connect to County Water Service.

12. Water conservation strategies, including xeriscape landscape techniques and low flow plumbing fixtures, shall be incorporated into the construction, operation, and maintenance phases of the development, and shall be included into the covenants and deed restrictions. The conservation strategies must include, but are not limited to, the following conditions:

1. The applicant shall commit to utilizing 50% native/drought-tolerant/Xeriscape vegetation in all common landscaped areas.

2. As the applicant has previously committed, the development will provide Xeriscape/drought-tolerant literature to all residents.

3. The applicant will utilize only slow-release/organic fertilizers within developer-maintained areas.

4. Surface water from on-site stormwater ponds shall be used as the primary source for irrigation and the shallow wells will be used only as emergency back-ups.

F. **Wastewater Management:**

13. The necessary wastewater treatment permit(s) needed to expand the plant to handle the additional wastewater treatment needs of this project shall be obtained from the FDEP prior to occupancy of Phase II. Phase II Development shall occur concurrent with the provision of adequate central sewer service meeting the adopted level of service in the Flagler County Comprehensive Plan. Expansion of wastewater treatment plant shall be limited to the existing geographic location. No movement of percolation ponds or spray irrigation may occur any further eastward toward Bulow Creek than as they existed on March 6, 2000. Or, as an alternative, connection to Flagler County's Utility System will be allowed to meet the project's Phase II wastewater treatment demands.

G. **Stormwater Management:**

14. The applicant must prepare a pre-development monitoring report for the canals, Bulow Creek and stormwater ponds (after completion). The water quality monitoring report shall be included with the submittal of the Biennial Report. These reports should include the recorded levels of total nitrogen, total phosphorus, and BOD. If these reports indicate a decline in water quality below the Florida Water Quality standards in the related water bodies, the developer must identify likely sources and provide beneficial remedies (such as decreasing fertilizer use, improved stormwater treatment, improved wastewater treatment).

H. **Transportation:**

15. Prior to any development in Phase II, the applicant shall provide the NEFRC, DEO, and Flagler County with a trip generation analysis of the existing occupied development to confirm the trip generation rates used in the analysis and the traffic impact analyses as specified in Section H.15.b below.

a. Applicant shall dedicate an additional ten (10) feet of right of way for possible future widening of Old Kings Road or construction of a county bicycle path system.

b. Prior to any development within Phase II, a traffic impact analysis of the existing development plus projected Phase II traffic and associated impacts should be conducted.

The traffic impact analysis should identify the following.

1.) Additional or modified turn lane requirements at Old Kings Road entrance;

2.) Need for intersection traffic signalization at the project entrance on Old Kings Road;

3.) Total traffic impacts on the capacity of Old Kings Road. If Old Kings requires additional traffic lanes and/or signal improvements the developer shall contribute their proportionate share toward the total cost. The proportionate share will be determined as a percentage of the Phase II traffic volume generated from Bulow Plantation.

c. Developer shall provide additional means of ingress and egress for emergency access. The emergency access depicted on the proposed Master plan (Map H) is acceptable provided the roadways are stabilized and can accommodate a structural use fire apparatus.

I. **Air Quality:**

16. The following fugitive dust control measures shall be undertaken during all construction activities throughout buildout of the project:

a. Contractors will moisten soil or use resinous adhesives on barren areas, which shall include, at a minimum, all roads, parking lots, and material stockpiles;

b. Contractors will use mulch, liquid resinous adhesives with hydro-seeding or sod on all landscape areas;

c. Contractors will remove soil and other dust-generating material deposited on paved streets by vehicular traffic, earth moving equipment, or soil erosion;

d. Contractors will utilize the best operating practices in conjunction with any burning resulting from land clearing, which may include the use of air curtain incinerators.

J. **Hurricane Preparedness:**

17. To mitigate impacts within Category 1 or 2 storm surge zones, development of all structures within Category 1 or 2 storm surge zones as shown in the Northeast Florida Hurricane Storm Surge Atlas Volume 4 shall have the first finished floor elevated to a minimum height of 8 feet NGVD 1929 Datum or the NAVD 88 equivalent (6.94 feet).

18. The County shall designate the entire development as a portion of the Category 1 evacuation zone.

19. A payment of \$48,352 will be made to Flagler County for expansion of the County's area hurricane shelter(s) to accommodate residents from Bulow Plantation. The developer will pay this amount prior to occupancy of greater than 350 MH dwelling units or RV sites, or combination thereof in Phase II of the development.

20. All residents of this development shall be provided with information regarding the vulnerability of the development to the impacts of hurricanes. The Flagler County Emergency Management Office must approve these materials prior to distribution. This information shall take the form of educational materials designed to increase evacuation participation.

K. **Applicant Commitments:**

The applicant has committed within the ADA, NOPC, and sufficiency responses to the following conditions to mitigate the adverse impacts associated with the Bulow Plantation Development of Regional Impact.

1. The developer has agreed to limit the type of outboard engine to be used in the waterways, to reduce leakage.

2. The applicant has committed to using the on-site stormwater lakes as the primary source of non-potable water supplies (irrigation and fire demand) with the shallow wells used as a secondary source.

3. Building structures will be placed a minimum of one foot above the 100-Year flood elevation or one foot above the highest adjacent road elevation, whichever is highest. The slope of this area will be approximately 1%.

4. The applicant has agreed to implement residential water saving fixtures such as low flow showers and toilets as part of the conservation measures, and to distribute water conservation literature to existing and future residents.

5. Relocation efforts for relocating gopher tortoises will follow the guidelines established by the Florida Fish and Wildlife Conservation Commission.

6. The wetlands along Bulow Creek will be placed in conservation by recording a conservation easement with the County and in the PUD agreement.

7. Any boardwalk will be located within existing cuts already within the wetlands, and will meet all FDEP standards allowing for construction with only temporary impacts, (including boardwalks at least five feet above mean high water with hand rails) such that shading will not occur, and access will be limited.

8. Best management practices for the protection of wetlands will be utilized, with the use of silt fences and turbidity barriers where necessary.

9. Best management practices will be utilized to develop a plan to prevent adverse impacts to Bulow Creek. This plan may include, but is not limited to, the following measures:

a. Installation of silt screens along the canals and Bulow Creek during construction.

b. Floating turbidity barriers in the canal during construction.

c. Grading and construction of stormwater ponds at the initial stage of construction.

d. Disturbed areas near the canals and Bulow Creek will be sodded and stabilized upon completion of grading.

10. The developer will pay \$300,000 (\$200,000 has already been paid by the developer, thereby resulting in an unpaid balance of \$100,000) to be applied toward the purchase of a fire pumper and an Advanced Life Support ambulance. The developer will pay the final installment of \$100,000 plus interest prior to occupancy of the 351st unit in Phase II. For purposes of the commitment, a unit shall be defined as either a MH or RV space.

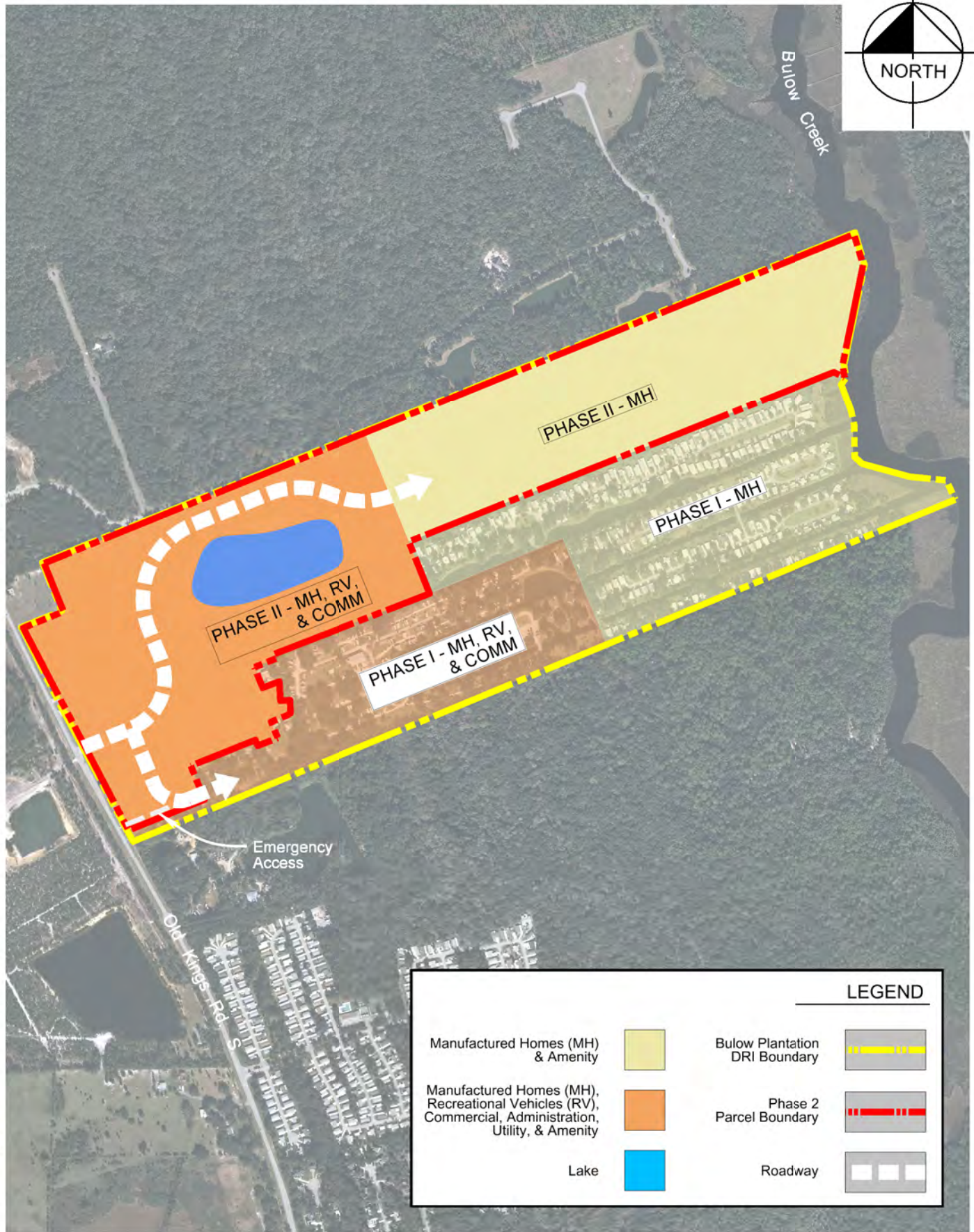
12. No lot may be sold or conveyed directly or indirectly by the Applicant. The entire parcel as described in Exhibit A must be sold or conveyed in its entirety. Use of corporate structures or stock transfers to lot renters as a form of transfer or sale of singular lots is also prohibited. Finally, the land described in Exhibit A shall not constitute common condominium property.

13. A scaled, fully dimensioned map of the street and lot layout for Bulow Plantation, along with all required buffers, conservation easements, recreation areas, bodies of water, commercial or activity center sites, stormwater management areas, lift stations, sewer treatment plants, water treatment or pumping facilities, boat launches and project entrance signs, flood zone and floodway limits, and vacant land remaining to be developed shall be provided to Flagler County prior to beginning development of Phase II. A revised updated map will be provided to Flagler County with each biennial monitoring report.

14. Substantial deviation review would be conducted if the development is no longer a 55 year older community as represented by the applicant in the ADA.

Exhibit C
Map H/PUD Map

This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc. K:\JAX_Civil\0000000000 Marketing\Equity Lifestyle Properties\CADD\PTO\PU045-Master Development Plan.dgn
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 ryan.bush



LEGEND	
Manufactured Homes (MH) & Amenity	
Manufactured Homes (MH), Recreational Vehicles (RV), Commercial, Administration, Utility, & Amenity	
Lake	
Bulow Plantation DRI Boundary	
Phase 2 Parcel Boundary	
Roadway	

Kimley >> Horn

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 JACKSONVILLE, FL 32258
 PHONE: 904 828 3900 | WWW.KIMLEY-HORN.COM
 CA 00000696

PROJECT #	045443001
DATE	JUNE 2016
SCALE	N.T.S.
DESIGNED BY	KHA
DRAWN BY	KHA
CHECKED BY	KHA

BULOW PLANTATION

DRI / PUD

FLAGLER COUNTY FLORIDA

PROPOSED MAP H / PLANNED UNIT DEVELOPMENT MAP

FIGURE NUMBER
A5

Land Use Table Exhibit D

Bulow Plantation Permitted Principle Uses and Buildings

	Phase I	Phase II	Cumulative Total
Manufactured Housing (MH)	276	324	600
Recreational Vehicles (RV)	352	398	750
Commercial	11,300	12,000	23,300

I. **Manufactured Housing (MH)**

1. A total of 600 leased and Improved Manufactured Housing sites for placement of Manufactured Homes & Appurtenances shall be allowed within the areas depicted on Map H.

2. Accessory Buildings and structures including but not limited to the Activity Center, Laundry, Swimming Pool, Pool House, Hot Tub or Spa, Tennis Courts, ShuffleBoard and Bocci Courts and other Recreational Facilities and Buildings shall be allowed within the MH areas depicted on Map H.

3. Manufactured Housing Sales Center.

II. **Recreational Vehicles (RV)**

1. A total of 750 improved recreational vehicles (RV) spaces shall be allowed within the areas depicted on Map H.

2. Leasing of campground spaces.

3. Commercial storage of recreational vehicles, boats, motor vehicles, trailers, etc.

4. Vending upon receiving county occupational license.

5. Recreational vehicle sales.

6. Accessory Buildings and structures including But not limited to Clubhouse Meeting Hall, Shower and Bathroom Facilities, Laundry, Swimming Pool, pool house, Tennis Courts,

Shuffleboard Courts, Picnic Pavilions & other Recreational Facilities shall be allowed within the RV areas depicted on Map H.

III. **Commercial Area**

As depicted on Map H, the following commercial uses are allowed in the Commercial areas:

23,000 ± square feet of commercial space, including but not limited to Convenience Store, Laundry, Recreational Vehicles Sales, Restaurant, Bar, Professional office, Storage, Automobile Service Station & Activity Center and Associated parking per use (11,300 SF existing commercial, 12,000 ± SF proposed).

ATTACHMENT C:
HURRICANE MITIGATION FEE
CALCULATION LETTER



February 8, 2017

Adam Mengel, AICP
Planning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd. Bldg. 2, Suite 105
Bunnell, FL 32110-0787

**Re: Bulow Plantation NOPC/PUD
Hurricane Preparedness Mitigation Fees**

Dear Adam,

Kimley-Horn and Associates, Inc., on behalf of MHC Bulow Plantation, LLC and MHC Bulow Plantation Two, LLC, would like to formally request your review and concurrence with the proposed Hurricane Preparedness Mitigation Fee calculation intended to satisfy the hurricane shelter requirement set forth in Section J.19 of Exhibit C (Special Conditions) contained in Ordinance 2000-15 in association with the Bulow Plantation Development of Regional Impact (DRI).

As you are aware, this Special Condition of the DRI/PUD requires the developer to construct the Bulow Plantation project's clubhouse to shelter standards as shown in the American Red Cross Guidelines for Shelter Selection. Additionally, the Special Condition requires that the clubhouse be large enough to shelter twenty-five percent (25%) of the estimated development population. However, based on several discussions with both Flagler County and the Northeast Florida Regional Council, it was agreed that instead, the developer should provide mitigation to the County in the form of a cash payment for the County's use in developing emergency shelter facilities in more appropriate locations.

As such, our research has identified an example of Hurricane Preparedness Mitigation Fee calculations, based on a per square foot cost to improve a facility to public shelter standards, that appears applicable to the payment proposed for Bulow Plantation. The example is found within the Bonita Springs Land Development Code (LDC) Article X Section 2-470.b.3. This section of the LDC identifies a required fee of \$6.66 per square foot to improve an existing facility to comply with public shelter standards.

Therefore, the Applicant proposes a Hurricane Preparedness Mitigation Fee of \$48,352 (600 MH Units x 25% x 2.42 (Avg. Household Size) x 20 (square feet required per person) x \$6.66 (cost attributable to comply with public shelter standards) as part of the NOPC/PUD Modification to satisfy the Special Condition.

Should you have any questions, please feel free to contact me at (904) 828-3900.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



Mark W. Shelton, AICP
Senior Planner

cc: Ryan Shoup
Joe P. Mecca, P.E.
William J. Schilling Jr., P.E.